

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

<p>(1) ROBBIE FRYE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>(1) PORTFOLIO RECOVERY ASSOCIATES, LLC,</p> <p style="text-align: center;">Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>COMPLAINT</p> <p>(Unlawful Debt Collection Practices)</p> <p>JURY TRIAL DEMANDED</p>
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COMPLAINT

NOW COMES Plaintiff, Robbie Frye, and for her Complaint against Defendant, Portfolio Recovery Associates, LLC, alleges as follows:

INTRODUCTION

1. Plaintiff states a claim against Portfolio Recovery Associates, LLC for violation of the Fair Debt Collection Practices Act, codified 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), which was enacted in 1978.

2. Congress stated its findings and purpose of the FDCPA:

(a) Abusive practices

There is *abundant evidence* of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

(b) Inadequacy of laws

Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

(c) Available non-abusive collection methods

Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

(d) Interstate commerce

Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) Purposes

It is the purpose of this title to *eliminate* abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.

4. Defendant conducts business in the state of Oklahoma; therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

6. Plaintiff is a natural person who resides in Pryor, County of Mayes, Oklahoma.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and

sought to collect a consumer debt from Plaintiff.

9. Plaintiff is informed and believes, and thereon alleges, that Defendant is a collections business with an office in Norkfolk, VA.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. In August, 2014, Defendant sent a letter to Plaintiff regarding an extremely old debt that was at one time allegedly owed to Providian Bank. According to the very letter mailed to Plaintiff, the letter stated, “Because of the age of the debt, we will not sue you for it, and we will not report it to a credit reporting agency.”

12. Plaintiff responded to Defendant in writing stating she refused to pay this time-barred debt, pursuant to her rights under 15 U.S.C. §1692c(c).

13. Despite receiving Plaintiff’s written letter on September 2, 2014, Defendant continued to attempt collection on the time-barred debt by sending Plaintiff a letter dated November 12, 2014.

14. Plaintiff has suffered actual damages as a result of this illegal collection communication in the form of anger and frustration, amongst other negative emotions, as well as suffering from unjustified and abusive invasions of personal privacy.

COUNT I **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT,** **(FDCPA), 15 U.S.C. § 1692 et seq.**

15. Defendant violated §1692c(c) of the FDCPA when it continued to attempted collection after Plaintiff’s written notice of refusal. This section states:

(c) Ceasing communication. If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt

collector shall not communicate further with the consumer with respect to such debt, except—

- (1) to advise the consumer that the debt collector’s further efforts are being terminated;**
- (2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or**
- (3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.**

WHEREFORE, Plaintiff, Robbie Frye, respectfully prays that judgment be entered against Defendant, Portfolio Recovery Associates, LLC, for the following:

- a) Statutory damages of \$1,000.00, pursuant to the FDCPA, 15 U.S.C. 1692k;
 - b) Actual damages pursuant to the FDCPA, 15 U.S.C. 1692k;
 - c) Costs and reasonable attorney’s fees pursuant to the FDCPA, 15 U.S.C. 1692k;
- and
- d) Any other relief that this court deems to be just and proper.

Respectfully submitted

/s/ Victor R. Wandres

Victor R. Wandres, OBA #19591



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